

1 UNITED STATES DISTRICT COURT  
2 DISTRICT OF NEVADA  
3

4 Douglas Harry Warenback,  
5 Petitioner  
6 v.  
7 Brian Williams, et al.,  
8 Respondents  
9

2:17-cv-02834-JAD-VCF  
**Order Dismissing Petition**  
[ECF No. 2]

10 Pro se petitioner Douglas Warenback is currently serving 4–10 years at the High Desert  
11 State Prison after he was convicted of pandering a child.<sup>1</sup> He filed this petition for a writ of  
12 habeas corpus,<sup>2</sup> but he did not pay the filing fee or file an application to proceed *in forma*  
13 *pauperis*. Although he filed a “notice of temporary financial information” in which he estimates  
14 his inmate account balances and provides some transaction summaries,<sup>3</sup> these filings are  
15 insufficient and this matter has been improperly commenced.<sup>4</sup>

16 Warenback also indicates on the face of his petition that he already has a federal habeas  
17 petition for this conviction pending in this court in case no. 2:15-cv-01789-APG-VCF. Title 28  
18 U.S.C. § 2244(b)(3)(A) provides: “Before a second or successive application permitted by this  
19 section is filed in the district court, the applicant shall move in the appropriate court of appeals  
20 for an order authorizing the district court to consider the application.”<sup>5</sup> Where a petition has been  
21 dismissed with prejudice as untimely or because of procedural default, the dismissal constitutes a  
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23 <sup>1</sup> NEVADA DEP’T OF CORRECTIONS, <https://www.doc.nv.gov/Inmates/Home> (last visited Nov. 16,  
24 2017) (inmate search by name Douglas Warenback or by offender ID 1112924).

25 <sup>2</sup> ECF No. 1-1.

26 <sup>3</sup> ECF No. 3.

27 <sup>4</sup> 28 U.S.C. § 1915(a)(2) (2012); Local Rule LSR 1-2.

28 <sup>5</sup> 28 U.S.C. § 2244(b)(3)(A) (2012).

1 disposition on the merits and renders a subsequent petition successive for purposes of 28 U.S.C.  
2 § 2244.<sup>6</sup>

3       Warenback's earlier-filed petition is still pending in this court before Judge Gordon.<sup>7</sup>  
4 This petition is therefore duplicative and successive. Warenback is apparently aware that he  
5 must seek leave from the Ninth Circuit to file a successive petition because he informs this court  
6 that he has asked the Ninth Circuit for leave but has not yet received an answer.<sup>8</sup> Without leave  
7 from the Ninth Circuit, Warenback may not file successive habeas petitions.

8       Accordingly, the **Clerk of Court** is directed to **DETACH and FILE** Warenback's  
9 petition **[ECF No. 1-1]**.

10       IT IS FURTHER ORDERED that the petition is **DISMISSED** without prejudice.


11       IT IS FURTHER ORDERED that Warenback's motion for leave to file a successive  
12 petition **[ECF No. 2] is DENIED**.

13       I decline to issue a certificate of appealability because reasonable jurists would not find  
14 my conclusions to be debatable or wrong.

15       The **Clerk of Court** is directed to **ADD** Adam Paul Laxalt, Nevada Attorney General, as  
16 counsel for respondents, and **ELECTRONICALLY SERVE** on respondents the petition along  
17 with a copy of this order. Respondents do not need to respond.

18       The **Clerk of Court** is directed to **ENTER JUDGMENT accordingly and CLOSE**  
19 **THIS CASE**.

20       DATED: November 20, 2017.

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22 U.S. District Judge Jennifer A. Dorsey  
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25 <sup>6</sup> See *McNabb v. Yates*, 576 F.3d 1028, 1029–1030 (9th Cir. 2009); *Henderson v. Lampert*, 396  
26 F.3d 1049, 1053 (9th Cir. 2005).

27 <sup>7</sup> See docket report 2:15-cv-01789-APG-VCF.

28 <sup>8</sup> ECF No. 2 at 2.